

REMARKS

Figure 2 was amended to include reference numeral 203 for the internal copper wiring. Applicants respectfully request the objection to the drawings be withdrawn.

Claims 22, 24, 26-27, 31-32, 34, and 45-46 were canceled.

Claims 10, 13, and 16 were corrected as suggested by the examiner. The "substantially the same point" language was changed to "proximate the one point." Claims 30, 38, and 39 were amended to correct the antecedent basis issues identified by the office action. The Office Action asserts that "the test signal" in claim 33 lacks antecedent basis. However, "a test signal" was introduced in line 4 of parent claim 31, thereby providing the requisite antecedent basis. Applicant respectfully requests the objections and rejections of these claims be withdrawn.

Claims 1-3, 9-13, and 18-21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by British Telecom (WO95/31865). Claims 4-8 and 14-17 stand rejected under 35 U.S.C. § 103(a) as being obvious over British Telecom in view of Mannering (United States Patent No. 6,137,839). Claims 22-46 stand rejected under 35 U.S.C. § 103(a) as being obvious over Bingel (United States Patent No. 6,014,425) in view of Mannering.

As set forth in amended claims 1 and 13, Applicant's invention relates to a testing system adapted to determine the suitability of the line from a single point of the line. In contradistinction thereto, British Telecom provides a system for testing a telephone line for its suitability using a field unit 5 positioned between the customer's telephone and the network termination equipment to produce a test signal and an exchange unit 6 positioned at the exchange. As recited in claim 1, Applicant's invention includes "applying a test signal at one point in the copper line" and "monitoring a response of the copper line at about the point where the test signal was applied." British Telecom does not teach or suggest this feature. Claims 13,

20, and 21 also include a similar feature. The Office Action does not indicate how this feature is taught by British Telecom.

Applicant's arrangement has distinct advantages over the testing system taught by BT. Because only one point of the line need be tested (e.g., at the exchange or at the subscriber's premises), the testing may be performed more efficiently and with less need for coordination between remote technicians. BT fails to teach or suggest providing and monitoring the test signal at a single point in the line.

An anticipating reference by definition must disclose every limitation of the rejected claim in the same relationship to one another as set forth in the claim. *In re Bond*, 15 U.S.P.Q.2d (BNA) 1566, 1567 (Fed. Cir. 1990). "[I]t is incumbent upon the examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference." *Ex parte Levy*, 17 U.S.P.Q.2d (BNA) 1461, 1462 (Pat. & Tm. Off. Bd. Pat. App. & Int. 1990).

Claims 20 and 21 are allowable for the same reasons provided above. Furthermore, claim 20 is directed to testing the line at the subscriber's premises, an arrangement clearly not taught or suggested by BT. BT requires one presence at the subscriber's premises and another presence at the termination equipment. Accordingly, BT does not test at the subscriber's premises. Also, claim 21 is directed to a test unit including a signal generator, a monitoring circuit, and a processing unit. BT requires separate units remotely installed.

Accordingly, claims 1, 13, 20, 21, and all claims depending therefrom, are allowable over British Telecom. Applicant respectfully requests the rejection to these claims be withdrawn.

Claim 5 includes the additional feature of determining the need for a filter based on the monitored response of the copper line. The Office Action merely shows a splitter being present

in Mannering. This does not equate to determining a need for a filter based on the monitored response of the copper line. Neither British Telecom nor Mannering teach or suggest this feature. Accordingly, Claim 5 is itself patentable for these additional reasons.

Claim 8 includes the feature of identifying a non-linear characteristic based on the monitored response of the copper line. The Office Action takes official notice that non-linear characteristics are known. However, merely acknowledging the presence of non-linear characteristics does not equate to determining the presence of such based on the monitored response of the copper line. Neither British Telecom nor Mannering teach or suggest this feature. Accordingly, Claim 8 is itself patentable for these additional reasons.

Claims 25 and 35 were rewritten in independent form. The invention, as set forth in claims 25 and 35, includes the feature of contacting a vendor for supplying service using the out-of-band data transmission protocol over the modem, providing the vendor with physical location information associated with the communication line, and receiving service availability data based on the physical location information. The Office Action asserts that Bingel inherently teaches this feature. Inherency requires that the feature must flow from the cited art. Simply stating that "the customer premises can communicate with a vendor throughout the internet for providing the customer premises' physical information as well as requesting a service availability data from the vendor" does not equate to an actual teaching. Neither Bingel nor Mannering even mentions contacting a service provider for purposes of receiving service availability data. Just because the internet could be used for such a contact is not a teaching of that feature, given that neither reference even hints at such. Accordingly, the Office Action fails to establish a *prima facie* case of obviousness. Applicants respectfully request the rejection of claims 25 and 35 be withdrawn.

Claims 28 and 39 were rewritten in independent form. Claims 23 and 30 were amended to depend from claim 28. Claims 33, 35, 36, 38, 40, and 41 were amended to depend from claim 39. The invention, as set forth in claims 28, 39, and 43 includes the general feature of installing a local filtering device based on the monitored response. The Office Action merely discusses a splitter being present in Mannering and in Bingel. This does not equate to determining a need for a filtering device based on the monitored response. Neither Bingel nor Mannering teach or suggest this feature. Accordingly, Claim 28, 39, and all claims depending therefrom, are patentable. Applicants respectfully requests the rejection of these claims be withdrawn.

In view of the remarks set forth herein, the application is believed to be in condition for allowance and notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the examiner is requested to contact the undersigned attorney at (608) 833-0748 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



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Date: March 2, 2004